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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Mark Aaron Foster,

10 Petitioner,

11 v.

12 Charles Ryan, et al.,

13 Respondents.  
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No. CV-18-00229-PHX-DWL

**ORDER**

15 Pending before the Court are Petitioner's petition for writ of habeas corpus under  
16 28 U.S.C. § 2254 (Doc. 1) and the Report and Recommendation ("R&R") of the United  
17 States Magistrate Judge (Doc. 11). The R&R, which was issued on November 30, 2018,  
18 recommended that the petition be denied and dismissed with prejudice and further provided  
19 that "[t]he parties shall have fourteen days from the date of service of a copy of this  
20 recommendation within which to file specific written objections with the Court. . . . Failure  
21 timely to file objections to the Magistrate Judge's Report and Recommendation may result  
22 in the acceptance of the Report and Recommendation by the district court without further  
23 review." (Doc. 11 at 11-12.)

24 Here, no such objections have been filed. Thus, the Court accepts the Magistrate  
25 Judge's recommendation. *See, e.g., Thomas v. Arn*, 474 U.S. 140, 149-50 (1985) ("It does  
26 not appear that Congress intended to require district court review of a magistrate's factual  
27 or legal conclusions, under a *de novo* or any other standard, when neither party objects to  
28 those findings."); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) ("[N]o


1 review is required of a magistrate judge's report and recommendation unless objections are  
2 filed."). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1221 (9th Cir. 2003)  
3 ("[T]he district judge must review the magistrate judge's findings and recommendations  
4 de novo *if objection is made*, but not otherwise.").

5 Accordingly,

6 **IT IS ORDERED** that the R&R (Doc. 11) is accepted and adopted, that the Petition  
7 (Doc. 1) is denied and dismissed with prejudice, and that the Clerk of Court shall enter  
8 judgment accordingly.

9 **IT IS FURTHER ORDERED** that a certificate of appealability and leave to  
10 proceed in forma pauperis on appeal be **DENIED** because the dismissal of the Petition is  
11 justified by a plain procedural bar and jurists of reason would not find the procedural ruling  
12 debatable.

13 Dated this 1st day of February, 2019.

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18 Dominic W. Lanza  
19 United States District Judge  
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